

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

In the Matter of	)	
	)	
Section 68.4 of the Commission's Rules	)	<b>WT Docket No. 01-309</b>
Governing Hearing Aid-Compatible	)	
Telephones	)	
	)	
Cingular Wireless LLC Petition for Waiver of	)	
Section 290.19(c)(3)(i) of the Commission's	)	
Rules	)	
To:		The Commission

**COMMENTS OF THE HEARING INDUSTRIES ASSOCIATION**

1. The Hearing Industries Association ("HIA") hereby submits these comments in response to the Petition of Cingular Wireless LLC ("Cingular"), filed on August 5, 2005, seeking a waiver of Section 20.19(c)(3)(i)(A) of the Commission's Rules so that it may market GSM handsets that do not achieve the required U3 or higher rating when operating in the 850 MHz band. HIA represents the manufacturers of some 85% of the hearing aids sold in the United States. HIA's members obviously have a significant stake in this matter, because the purpose of the rule is to enable wearers of their products to use cellular telephones successfully, without perceptible interference to the functioning of the hearing aid.

2. HIA is disappointed that the GSM/850 MHz problem is only now coming to light. Handset manufacturers should have recognized and addressed the problem earlier, before final rules were adopted in this proceeding. However, hearing aid designers are not cellphone/PCS handset designers. They do not have the expertise or desire to comment in detail on handset design or how best to improve handset performance, nor can they solve the problem. HIA's objective is the same as the Commission's -- to achieve an effective end result that enables users

of hearing aids to use cellular and PCS handsets with as little disadvantage as possible compared to persons who do not wear aids.

3. That being said, HIA acknowledges that there is anecdotal evidence showing that a hearing aid wearer using a GSM handset that achieves a U3 rating at 1900 MHz may experience comparable interference immunity when the handset operates at 850 MHz at higher power, even though the handset does not achieve a U3 rating at 850 MHz under the current ANSI C63.19 standard. It may be that a modification of Table 1 of the C63.19 standard, to provide a separate rating for each frequency band, is an appropriate way to respond to this observation.<sup>1</sup>

4. However, the possibility of providing separate ratings for each of the two GSM frequency bands must not become an excuse to backslide from the achievements of the Report and Order in this proceeding. After a great deal of effort by the Commission and many other participants, rules were adopted, and a timetable was established, to enforce the mandate of Section 225 of the Communications Act. Prompt achievement of the goals of the statute was, and should continue to be, the Commission's primary focus. That principle mandates that the remedy for the problem now before the Commission be restricted to that specific problem. There is no need to conclude that anything is "impossible" or "infeasible" within the meaning of Section 225, the Commission's determination that the time for exempting cellular/PCS handsets from Section 225 has ended must be left intact, and no handset should be completely exempted from the rule. While there may be reason over the long term to adjust the C63.19 standard, as there is to adjust any standard over time as technology progresses, it is very important to keep the

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<sup>1</sup> Given the standard's role as a predictor of end-user satisfaction based on category ratings, any changes in the standard that affects rating values must be validated by a formal clinical study and not based on anecdotal evidence.

ball rolling, which means that apart from the narrow GSM/850 issue, the standard should be left in place with respect to all air interfaces until it has been regularly used and the manufacturing industry has become accustomed to designing products that will achieve the required rating under the standard.<sup>2</sup>

5. Accordingly, any relief that the Commission sees fit to grant should be in the nature of a narrow rule waiver. Moreover, it is important that the process of resolving the GSM/850 issue be completed with reasonable dispatch; so any waiver should be limited in time. Cingular's commitment to report to the Commission at six-month intervals is laudable and should be adopted. However, the waiver should still be limited in time, perhaps to one year. A one-year time limit does not preclude grant of an extension, but it will place the burden on the manufacturing industry to justify an extension of the waiver rather than placing the burden on parties who might petition to terminate an indefinite waiver. It will also place all affected parties (manufacturers, service, providers, ATIS, and ANSI) on notice of the Commission's insistence that any changes that turn out to be necessary in the C63.19 standard be adopted promptly.

6. In conclusion, HLA believes that it would be appropriate for the Commission to grant a temporary waiver of Section 20.19(C)(3)(i)(A), subject to the conditions that have already been proposed by Cingular -- that Cingular will:

- a. offer four GSM handset models that are rated U3 or better at 1900 MHz,
- b. offer at least one model that is rated U3 or better at 850 MHz at a power level below 2 watts,

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<sup>2</sup> The Commission should also adhere to the principle that the objective is to enable hearing aid wearers to use cellphone/PCS handsets in the same way that persons with normal hearing do, which means that a solution that involves add-on devices like loops should not be deemed compliance with Section 225.

c. report to the Commission every six months on progress in resolving the problem of how to rate GSM/850 handsets, and

d. continue to press handset manufacturers to improve the performance of their products with respect to hearing aid compatibility.

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Respectfully submitted,

  
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August 11, 2005

**CERTIFICATE OF SERVICE**

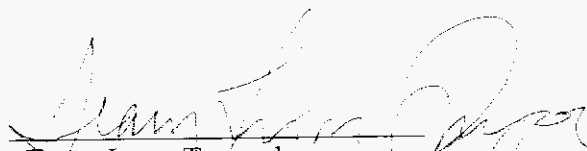
I, Tracy Lynn Trynock, do hereby certify that I have, this 11th day of August, 2005, caused to be sent by first class United States mail, postage prepaid, a copy of the foregoing "Comments of the Hearing Industries Association" to the following:

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On behalf of SHHH, Gallaudet University, and  
AGBell Association for the Deaf and Hard of Hearing

In addition, copies of these Comments will be sent by e-mail to the following members of the FCC Staff:

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